

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

IN RE:

CASE NO.: 6:17-bk-02971-CCJ
CHAPTER 7

Lelawtie Balgobind,

Debtor.

**RESPONSE TO CHAPTER 7 TRUSTEE'S MOTION TO (I) APPROVE A SHORT SALE
OF REAL PROPERTY FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES,
AND INTERESTS PURSUANT TO 11 U.S.C. § 363(b), (f), AND (m), (II) SURCHARGE
AGREEMENT BETWEEN SECURED LENDER AND THE ESTATE, AND (III)
OTHER RELIEF**

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE BEAR STEARNS ASSET BACKED SECURITIES I TRUST 2005-AC6, ASSET-BACKED CERTIFICATES, SERIES 2005-AC6 ("Secured Creditor"), by and through undersigned counsel, hereby files its Objection to Chapter 7 Trustee's Motion to (I) Approve a Short Sale of Real Property Free and Clear of Liens, Claims, Encumbrances, and Interests Pursuant to 11 U.S.C. § 363(b), (f), and (m), (II) Surcharge Agreement Between Secured Lender and the Estate, and (III) Other Relief ("Motion") (DE #76) and, in support thereof, states as follows:

1. Secured Creditor holds a security interest in the Debtor's real property located at 4422 BEAGLE ST., ORLANDO, FL 32818 (the "Property").
2. On March 26, 2019, Richard B. Webber II, Chapter 7 Trustee (the "Trustee") filed Chapter 7 Trustee's Motion to (I) Approve a Short Sale of Real Property Free and Clear of Liens, Claims, Encumbrances, and Interests Pursuant to 11 U.S.C. § 363(b), (f), and (m), (II) Surcharge

Agreement Between Secured Lender and the Estate, and (III) Other Relief requesting approval to sell the property as a short sale.

3. Secured Creditor previously sought and obtained an Order Granting Relief from the Automatic Stay to proceed with its state court remedies against the subject property (DE #73).

4. Secured Creditor objects to the sale and requests this Court allow it to proceed with its state court remedies as said sale will only cause more costs to be incurred by Secured Creditor as it proceeds with its state court remedies. Such costs outweigh the benefit to the bankruptcy estate.

5. Alternatively, Secured Creditor requests that any order granting such sale include language barring any third-party purchaser from standing in the shoes of the borrowers and asserting any affirmative defenses in any underlying foreclosure action.

6. Secured Creditor, pursuant to 11 U.S.C. 363(k), also reserves the right to credit bid on the Property.

7. Secured Creditor is filing its Response in an abundance of caution, as Secured Creditor wants it to be clear that it should not be compelled to participate in a sale of the property absent payment in full of Secured Creditor's mortgage lien on the real property without being given the right to credit bid pursuant to 11 U.S.C. § 363(k).

8. Furthermore, Secured Creditor requests that failure to complete any sale within 90-days of entry of this Order will result in any Order authorizing the sale to be deemed moot.

9. Secured Creditor reserves the right to supplement this response at or prior to any hearing on this matter.

WHEREFORE, Secured Creditor respectfully requests entry in compliance with the above requests and for such other and further relief as the Court deems just and proper.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 18, 2019, I caused to be electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the following parties:

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